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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/666,300	09/21/2000	Raymond Freymann	951/48943	8406

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Crowell & Moring LLP
Intellectual Property Group
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EXAMINER

MICHALSKI, JUSTIN I

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 01/14/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/666,300

Applicant(s)

FREYMAN ET AL.

Examiner

Justin Michalski

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/07/2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Rejections in this action are based on previous rejections in paper No. 8.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Miller (US Patent 5,237,617). As stated in previous Office Action mailed 7/24/2003 Miller anticipated all elements of claim 1. Miller further discloses a synthesizer (synthesizer 32) which outputs a predefined sound in response to an indication of a thrust operation (sensors 13, 14, 16, 17, 23, and 24 sense thrust operation) of a motor vehicle (Miller discloses processor 37 and chip 38 supplies synthesizer 32 with signals (Column 4, lines 11-18) which may contain pre-recorded (i.e. predefined) sounds (Column 4, lines 54-57)).

Response to Arguments

Applicants' arguments, see pages 6-8, filed 11/07/2003, with respect to claims 1, 4, 5, and 9 have been fully considered but they are not persuasive. The Office respectively disagrees with the applicants' argument regarding independent claims 1 and 9 stating, "...there is no showing in Miller whereby synthetic sound components

from the synthesizer are added to signals generated from a sound sensor.” Miller discloses card processor 37 which receives a microchip 38 as a personality module and supplies synthesizer 32 with signals (i.e. synthetic sound components). These signals when combined (i.e. added) with signals from analyzer 11 produce an output signal (Column 4, lines 8-25). Miller, therefore, clearly shows that synthetic sound components are added to signal generated from a sound pressure sensor.

In response to applicants’ argument that the references fail to show certain features of applicant’s invention, it is noted that the features upon which applicant relies (i.e., as argued, “The output of the synthesizer 32 of Miller is directly converted and fed into the speakers, in contrast to the claimed invention.”) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant's arguments, see page 8, filed 11/07/2003, with respect to claims 2, 3, and 7 have been fully considered but they are not persuasive. The Office respectively disagrees with the applicants’ argument that Tanaka et al. (5,692,052) adds nothing toward meeting the claim limitations when combined with Miller (5,237,617).

Regarding claim 2 Tanaka et al. discloses the limitation of a synthesizer (Fig. 16, references 44 and 46) which provides at least one sinusoidal frequency (signals 54a and 54b) which is a function of an engine speed (sensor 55) of a motor vehicle.

Regarding claim 3, Tanaka et al. discloses the limitation of a memory map information (i.e. memory unit) (Fig. 19, reference 45) consisting of values for amplitudes and phases of sinusoidal oscillations as a function of the engine speed (Column 10, lines 38-52).

Regarding claim 7, Tanaka et al. discloses the limitation of a signal processing unit (Fig 16, reference 54) including a filter unit (filter 41) for filtering a signal from an air flow meter (meter 53) and wherein said filter provides an output which changes the sound characteristics of signal detected by a flow meter (Tanaka et al. teaches signal from air flow is input to bandpass filter 41 which changes signal by extracting alternating current components) (Column 9, lines 47-51).

Applicant's arguments, see page 7, filed 11/07/2003, with respect to claim 1 have been fully considered and are persuasive regarding that the abstract of Hennl does not disclose that the output of the synthesizer is added to a signal from a sound pressure sensor. Tanaka et al. adds the limitation of a pressure sensor in claim 1. The rejection under Hennl of claim 1 has been withdrawn. 102 Rejection under Miller is upheld.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Michalski whose telephone number is (703)305-5598. The examiner can normally be reached on 8 Hours, 5 day/week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Isen can be reached on (703)305-4386. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

JIM


XU MEI
PRIMARY EXAMINER